

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

WALTER MANUEL AGUILAR-)
CHAIDEZ,)
)
 Plaintiff,)
)
-vs-) Case No. CIV-22-235-F
)
)
THE GEO GROUP, INC.,)
)
)
 Defendant.)

ORDER

Plaintiff Walter Manuel Aguilar-Chaidez, describing himself as a “deportable alien” and appearing *pro se* and *in forma pauperis*, commenced this 42 U.S.C. § 1983 action seeking \$39,935.20 in damages for alleged violations of the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201, *et seq.*, and the Oklahoma Minimum Wage Act (OMWA), 40 O.S. § 197.1, *et seq.* Plaintiff alleges that defendant The Geo Group, Inc. failed to pay him a fair minimum wage while he was detained at the Great Plains Correctional Facility in Hinton, Oklahoma.¹ The matter was referred to United States Magistrate Judge Shon T. Erwin for initial proceedings consistent with 28 U.S.C. § 636. After initial screening, Magistrate Judge Erwin issued a Report and Recommendation on April 29, 2022, recommending that plaintiff’s FLSA claim be dismissed without prejudice for failure to state a claim, and with the

¹ Plaintiff is currently housed at FCI Edgefield in Edgefield, South Carolina. On August 14, 2019, the undersigned sentenced him to a 72-month sentence for drug conspiracy and he was initially detained at Great Plains Correctional Facility. United States v. Walter Manuel Aguilar-Chaidez, Case No. CR-18-41-F, doc. nos. 418 and 421. According to the Bureau of Prisons inmate locator, his current release date is April 21, 2023.

dismissal of that federal claim, the court decline to exercise supplemental jurisdiction over plaintiff's OMWA claim and dismiss the state law claim without prejudice. Magistrate Judge Erwin also recommended that should the court adopt the Report and Recommendation, the court find the pending motion to appoint counsel to be moot.

The court is in receipt of an objection by plaintiff to the Report and Recommendation. In accordance with 28 U.S.C. § 636(b)(1), the court has conducted a de novo review. Having done so, the court concurs with the analysis of Magistrate Judge Erwin regarding plaintiff's claims. The court need not repeat that analysis here. The court finds plaintiff's objection to be without merit.² The court therefore accepts the recommended ruling.

Accordingly, the Report and Recommendation issued by United States Magistrate Judge Shon T. Erwin (doc. no. 11) is **ACCEPTED**.

Plaintiff Walter Manuel Aguilar-Chaidez's claim under the Fair Labor Standards Act is **DISMISSED WITHOUT PREJUDICE** for failure to state a claim upon which relief may be granted.

With the dismissal of the federal claim, the court declines to exercise supplemental jurisdiction over plaintiff Walter Manuel Aguilar-Chaidez's claim under the Oklahoma Minimum Wage Act and the state law claim is **DISMISSED WITHOUT PREJUDICE**.

² In his objection, plaintiff suggests that Magistrate Judge Erwin erred in screening his complaint under 28 U.S.C. § 1915A(a) and then recommending dismissal of his federal claim pursuant to § 1915A(b)(1), claiming that defendant is not a "governmental entity." The court need not decide whether defendant is a "governmental entity" for purposes of § 1915A because 28 U.S.C. § 1915(e)(2)(B)(ii) also authorizes the screening and dismissal of a claim alleged in a complaint filed *in forma pauperis* that fails to state a claim on which relief may be granted.

In light of the court's ruling with respect to plaintiff Walter Manuel Aguilar-Chaidez's claims, the Motion to Appoint Counsel (doc. no. 3) is **STRICKEN** as **MOOT**.

A separate judgment will issue.

IT IS SO ORDERED this 23rd day of May, 2022.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

22-0235p001.docx